

## **BOARD OF VETERINARY MEDICAL EXAMINERS**

### **Minutes**

Date: December 8, 2005

Time: 9:00 a.m., C.S.T.

Location: Big Tennessee Room  
Ground Floor, Cordell Hull Building  
425 Fifth Avenue North  
Nashville, TN 37247-1010

Members Present: Leland Davis, D.V.M, President  
C. Maben Thompson, D.V.M.  
Thomas Edmonds, D.V.M.  
Jerry Wilhite, D.V.M.  
Mary Welch, D.V.M., Vice-President  
Ron Wilson, D.V.M., Ex-officio Member  
Robbie Bell, HRB Director, Ex-officio Member

Members Absent: Marie Gordon, Consumer Member  
Mary Ann Grell, L.V.M.T., Secretary

Staff Present: Lisa Lampley, Board Director  
Rita Buckner-Shelton, Board Administrator  
Nicole Armstrong, Advisory Attorney  
Robert Taylor, D.V.M., Board Consultant/Inspector

A roll call vote was taken and upon determination of a quorum being present, the Board meeting was called to order by Dr. Davis at 9:12 a.m.

### **Approval of Minutes**

After reviewing the minutes from the August 24, 2005 board meeting, Dr. Edmonds motioned to approve the minutes as presented. Dr. Welch seconded the motion. The motion carried.

### **Conflict of Interest Policy**

Ms. Nicole Armstrong, Advisory Attorney, reviewed the conflict of interest policy with the Board members.

## **Investigations and Disciplinary Report**

Ms. Lea Phelps, Disciplinary Coordinator, reviewed the reports with the Board. There are currently seventy-two (72) open complaints in the Office of Investigations. A total of seventeen (17) new complaints were received during the period of August – October, 2005. An analysis of newly filed complaints categorized by allegation and month received and by geographical area and month received was included. Ms. Phelps informed the Board that three additional investigators have recently been hired. The disciplinary report indicated that nineteen (19) individuals are currently being monitored for compliance with Board orders.

## **Rules Status Report**

Mr. Jerry Kosten, Regulations Manager, reported that a rulemaking hearing was held on November 22, 2005 regarding the use of professional titles as pertains to the practice of veterinary medicine per Public Chapter No. 467 and the approval/administration of Xylozene and Acepromazine as pre-euthanasia drugs to be used by certified animal euthanasia technicians working in a certified animal control agency. No comments were received at the rulemaking hearing. After review, a motion was made by Dr. Edmonds, seconded by Dr. Welch, to ratify the proposed rule change. The motion carried.

Mr. Kosten reviewed the rule amendments effective December 17, 2005 and January 16, 2006 respectively. These rule amendments are posted on the Internet under “Noteworthy” on the Board’s website.

## **Licensure Applicant Interview**

### Timothy Dalpiaz, DVM

Dr. Dalpiaz appeared before the board for an interview pursuant to information contained in the “employment/occupation” section of the licensure application which indicated that Dr. Dalpiaz had been practicing in Tennessee without a license since June, 2003. Pursuant to the responses received during the interview, Dr. Welch made a motion, seconded by Dr. Edmonds, to grant the license with the following conditions:

- Must stop practicing immediately.
- Must submit documentation of all continuing education courses/activities from calendar year 2004 and 2005 prior to issuance of license.
- License will be placed on probation for a period of three (3) years.
- Annual appearances before Board.
- Assessed total civil penalties in the amount of \$2,400.00 for practicing without a license.
- Must advise the Board in writing of any changes in address, employment, or compliance with terms of probation.

The motion carried.

Heather Lynne White Zuvers, DVM

Dr. Zuvers appeared before the board for an interview pursuant to information contained in the licensure application. Dr. Zuvers answered “yes” to questions pertaining to disciplinary action in another state. Effective February 10, 2003, Dr. Zuvers’ Arizona license was placed on probation for one year with conditions and the license was subsequently revoked on December 2, 2003 for failure to comply with the Board’s order. Dr. Zuvers stated that her house was flooded during the recent “Katrina” hurricane and all documentation of continuing education hours was lost. Verification of completion of fifteen (15) hours per year for calendar years 2002, 2003, 2004, and 2005 was received from the Mississippi Board of Veterinary Medical Examiners. Dr. Edmonds made a motion, seconded by Dr. Thompson, to grant the license. The motion carried.

**Consent Order – Holly M. McLain, D.V.M.**

Dr. Holly McLain, DVM, was not present and was not represented by counsel. Ms. Nicole Armstrong, Assistant General Counsel, represented the State. Pursuant to a settlement agreement reached previously by the Board’s screening panel, Ms. Armstrong presented a Consent Order to the Board for ratification. Dr. Welch recused herself. Dr. McLain operated Banfield The Pet Hospital of West Town without a premise permit from November 2004 to April 2005. Dr. McLain was assessed civil penalties in the amount of \$300.00. Dr. Wilhite made a motion, seconded by Dr. Thompson, to accept the Consent Order. The motion carried.

**Consent Order – Herman Boyd, D.V.M.**

Dr. Herman Boyd, DVM, was not present and was not represented by counsel. Ms. Nicole Armstrong, Assistant General Counsel, represented the State. Pursuant to a settlement agreement reached previously by the Board’s screening panel, Ms. Armstrong presented a Consent Order to the Board for ratification. Dr. Welch recused herself. Dr. Boyd operated Eastside Animal Clinic without a premise permit from July 2000 to February 2003 and was assessed civil penalties in the amount of \$1,550.00. Dr. Boyd operated a home-based veterinary clinic without a premise permit from February 2003 to October 2005 and was assessed civil penalties in the amount of \$3,100.00. Dr. Boyd was also issued a Reprimand. Dr. Wilhite made a motion, seconded by Dr. Thompson, to accept the Consent Order. The motion carried.

**Agreed Order – Randy Cooke, D.V.M.**

Dr. Randy Cooke, DVM, did not appear before the Board and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented an Agreed Order to the board for ratification. In violation of the board order effective September 03, 2003, Dr. Cooke has not made payment of assessed civil penalties and costs. Dr. Cooke’s license was placed on probation for two years with the condition that he fully complies in a timely manner with all requirements to renew his license to practice veterinary medicine and his premise permit and make payment of previously assessed civil penalties and costs. Dr. Welch made a motion, seconded by Dr. Wilhite, to accept the Agreed Order. The motion carried.

### **Agreed Order – Merlin Shuck, DVM**

Dr. Merlin Shuck, DVM, was not present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented an Agreed Order to the board for ratification. Dr. Shuck violated a previous board order by failing to appear before the board in 2001, 2002, 2003, and 2004 and failing to submit documentation of community service for 2001, 2002, 2003, and 2004. Total civil penalties in the amount of \$2,000.00 were assessed. The license was placed on probation for five years or until such time as the license is retired. During the probationary period, the license shall be renewed in a timely manner and Dr. Shuck will appear annually before the board beginning in December, 2006 and provide proof of completion of continuing education hours. Dr. Edmonds made a motion, seconded by Dr. Welch, to accept the Agreed Order. The motion carried with Dr. Thompson opposed.

### **Agreed Order – Gina Minga, Unlicensed**

Ms. Gina Minga, Unlicensed, was not present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented an Agreed Order to the Board for ratification. Ms. Minga owned and operated The Horse's Mouth from approximately July 1995 to at least July 2005. During this period, Ms. Minga practiced veterinary medicine by performing the acts of floating, filing, and pulling teeth, aligning bites, and straightening incisors for horses for a fee. Ms. Minga also sedated horses for dental procedures with prescription drugs obtained from a veterinarian. Ms. Minga was assessed civil penalties in the amount of \$3,000.00 and ordered to immediately cease and desist the unlicensed practice of veterinary medicine, specifically equine dental procedures. Dr. Edmonds made a motion, seconded by Dr. Welch, to accept the Agreed Order. The motion carried.

### **Consent Order – Richard A. Jones, D.V.M.**

Dr. Richard Jones, DVM, was not present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented a Consent Order to the Board for ratification. Dr. Welch recused herself. Dr. Jones operated Cool Springs Animal Hospital without a premise permit from approximately January 2000 to October 2004. Dr. Jones was assessed total civil penalties in the amount of \$2, 900.00 and assessed costs of the proceedings. Dr. Edmonds made a motion, seconded by Dr. Wilhite, to accept the Consent Order. The motion carried.

### **Consent Order – John A. Livingston, D.V.M.**

Dr. John Livingston, DVM, was not present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented a Consent Order to the Board for ratification. Dr. Livingston practiced on an expired license from December, 1997 to April, 2005. Dr. Livingston was assessed total civil penalties in the amount of \$8,900.00 and assessed costs of the proceedings. Dr. Edmonds made a motion, seconded by Dr. Wilhite, to accept the Consent Order. The motion carried.

### **Consent Order – Sammy Sanders, Unlicensed**

Mr. Sammy Sanders, Unlicensed, was not present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented a Consent Order to the Board for ratification. Mr. Sanders practiced veterinary medicine in that he provided the following services for horses owned by customers of White Oak Farm: artificially inseminating walking horses(mares); administering antibiotics, Prostin, HCG, and vaccinations to horses. Mr. Sanders was ordered to cease and desist from the practice of veterinary medicine and assessed total civil penalties in the amount of \$1,500.00. Dr. Edmonds made a motion, seconded by Dr. Welch, to accept the Consent Order. The motion carried with Dr. Thompson opposed.

### **Agreed Order – Charles L. Patrick, Jr., D.V.M.**

Dr. Charles Patrick, DVM, was not present and was not represented by counsel. Ms. Brandi Bozarth, Assistant General Counsel, presented an Agreed Order to the Board for ratification. Dr. Patrick continued to provide veterinary medical services to clients after the revocation of his license on September 13, 2004. Total civil penalties in the amount of \$4,000.00 were assessed and he shall immediately cease and desist the unlicensed practice of veterinary medicine, specifically manual pregnancy checks and embryo transfers. Dr. Edmonds made a motion, seconded by Dr. Wilhite, to accept the Agreed Order. The motion carried.

### **Discussion – Date to Conduct Hearing for Petition for Declaratory Order**

The scheduled hearing for the Petition for Declaratory Order filed by Ms. Bonnie Cady was continued per ruling of the Administrative Law Judge. Due to the volume of cases pending in the Office of General Counsel and the number of scheduled board meeting dates, the board discussed and agreed to schedule an extra board meeting date to conduct the hearing for the petition for declaratory order and disciplinary matters. The tentative date for the meeting is February 16, 2006.

### **Report - American Association of Veterinary State Boards (AAVSB) Conference**

Dr. Welch and Ms. Lampley attended the annual AAVSB conference September 8 – 11, 2005 in Kansas City, Missouri. Dr. Welch gave a summary of the topics discussed at the meeting and stated that the meeting was very informative and interesting. A written summary of the meeting was included in the board books and slides from the presentations are available on the AAVSB website: [www.aavsb.org](http://www.aavsb.org).

### **Discussion – Definition of Accepted Livestock Management Practices**

Dr. Allan Holladay, DVM, President, Tennessee Veterinary Medical Association (TVMA), presented a petition for adoption of rules to the board. Dr. Holladay expressed concerns regarding the wide-spread practices in which horses and food animals are receiving diagnostic and treatment services in substantial numbers from persons who are not licensed veterinarians. He stated that these practices create a danger to the public health and welfare as many horses and food animals are receiving medications, including controlled substances, and invasive treatments without first being diagnosed by a licensed veterinarian and without the supervision of a

veterinarian with respect to certain treatments and follow-up care. Proposed rule amendments would define “Indirect supervision” and “Accepted livestock management practices”. The licensed veterinarian would not be required to be on the premises for services that may be provided under indirect supervision. “Accepted livestock management practices” is defined as services which may be performed by persons who are not licensed as veterinarians and would be limited to the administration of any drug, medicine, or biologic prescribed by the veterinarian who has a valid veterinarian-client-patient relationship as defined in 1730-1-.21; and the use of any manual or mechanical procedure for artificial insemination, the collection of semen, the implantation of frozen embryos, or the intra-uterine administration of medication when these procedures are performed under the indirect supervision of a licensed veterinarian.

Mr. Joe Pearson, Director, and Mr. John Woolfolk, Associate Director, Commodities Activities, Tennessee Farm Bureau, were in attendance. Mr. Woolfolk addressed the board and stated their main concern pertained to the trained/certified artificial insemination (a.i.) technicians who had been working for years and were now determined to be in violation of the law. They would like the law clarified to ensure that trained/certified technicians who have a proper relationship with the herd can continue to provide services to the beef industry and livestock. They expressed support of the TVMA’s proposed rule amendments as a step in the right direction and would like to include the palpation of beef cattle as an accepted livestock management practice.

Dr. Davis asked that a committee comprised of Ms. Armstrong, Dr. Wilson, and representatives from the TVMA meet and develop language regarding accepted livestock management practices to present to the board in February for consideration and authorization for a rulemaking hearing.

### **Petitions for Declaratory Order**

A petition for declaratory order was received from horse trainers/breeders represented by Robert B. Littleton, Attorney, Miller & Martin PLLC and a petition for declaratory order was received from horse trainers/breeders represented by Lynda M. Hill, Attorney, Miller & Martin PLLC. These petitions contain the same language as the petition for declaratory order filed by Ms. Bonnie Cady that was scheduled to be heard today. Ms. Lynda Hill, Attorney, filed a motion to intervene in the hearing for Ms. Cady and said motion was granted by the administrative law judge. Dr. Thompson made a motion, seconded by Dr. Wilhite, to deny the hearing for the petition for declaratory order filed by Mr. Littleton with the stipulation that Mr. Littleton be instructed to file a motion to intervene in the Bonnie Cady hearing. The motion carried. Dr. Welch made a motion, seconded by Dr. Thompson, to deny the hearing for the petition for declaratory order filed by Ms. Hill. The motion carried. The hearing to be conducted in February, 2006 will include all three petitions for declaratory order filed in this matter.

### **Office of General Counsel (OGC) Report**

Ms. Nicole Armstrong, Advisory Attorney, informed the Board there are rule changes regarding revising prerequisites to prescribing becoming effective December 17, 2005 and rule changes regarding reinstatement of retired licenses, premise permit inspections, and temporary licenses becoming effective January 16, 2006. There is currently one set of rules under review at the Office of the Attorney General and a roll call vote scheduled for this meeting regarding use of pre-euthanasia sedatives by certified animal euthanasia technicians and use of titles by licensees.

The Office of General Counsel currently has twenty-four (24) open cases pertaining to the Tennessee Board of Veterinary Medical Examiners. Two (2) cases involve veterinary facilities; the remaining twenty-two (22) cases involve veterinarians.

### **Inspection Report**

Dr. Robert Taylor, Board Consultant/Inspector, reviewed the inspection report. A total of sixty-nine (69) inspections were conducted during the period of August, 2005 – November, 2005.

### **Director's Report**

Ms. Lampley informed the Board that there still had been no notification received regarding the replacement of Dr. Wilhite whose term on the board expired 08-01-05 and expressed appreciation for all his hard work. The Veterinary Technician National Examination (VTNE) will be administered on January 20, 2006 to approximately twelve (12) candidates. As a result of the meeting of the Joint Legislative committee, a taskforce has been formed to explore some of the issues raised at the meeting. Members of the taskforce are: C. Maben Thompson, DVM, Board Member; Oscar Wilson, Jr., DVM; John Donaldson, DVM; Matthew Povlovich, DVM; C. Frank Locklar, Jr., DVM; and Denise Moran, Director of Investigations. Ms. Robbie Bell, HRB Director and Ms. Lampley will also be on the taskforce. A status report of total active licensees as of November 30, 2005 was provided as well as a report of license activity for the period of August 16 – November 30, 2005 (please see below). The anticipated move date of Health Related Boards to the new location at Metro Center is now February, 2006.

Status Report of Total Active Licensees as of November 30, 2005:

Veterinarians:	1,644
Veterinary Medical Technicians:	318
Veterinary Facilities:	571
Certified Animal Euthanasia Technicians:	157
Certified Animal Control Agencies:	41

License Activity for period of August 16 – November 30, 2005:

	<u>Newly Licensed</u>	<u>Reinstated</u>	<u>Retired</u>	<u>Renewals</u>
DVM:	18	5	12	209*
LVMT:	3	0	2	55**
VMF:	13	n/a	n/a	39
CAET:	21	0	1	9
C.A.C.A.	1	n/a	n/a	2

\*30 Web Renewals

\*\*12 Web Renewals

## **Financial Report**

A copy of the last financial report was available for review. Per Lisa Tittle, Director of Administrative Services, a draft of the report for the fiscal year ending June 30, 2005 should be mailed to board members by December 25, 2005. The board requested that Ms. Tittle be invited to the April, 2006 board meeting to review projections, etc.

## **Continuing Education Course Approval**

The following requests for approval of continuing education hours were received:

A request from **Equine-Reproduction.com** for approval of seventeen and one-half (17.5) continuing education hours for “Equine Reproduction Short Courses” to be held on March 4 -5, 2005 in Shelbyville, TN.

A request from **Professional Compounding Centers of America (PCCA)** for approval of twenty and one-half (20.5) continuing education hours for the “PCCA Veterinary Symposium” held on November 17-19, 2005 in Miami, Florida.

A request from **Trinity Communications** on behalf of **Pfizer Animal Health** for approval of eleven (11) continuing education hour for the “Bovine Practitioner Symposium” to be held on December 15-16, 2005.

A motion to approve all courses was made by Dr. Edmonds and seconded by Dr. Welch. The motion carried.

## **File Review/Ratification**

The Board reviewed an application for licensure by reciprocity as a veterinarian submitted by **Angelika Marie-Louise Farrell, DVM**. Dr. Farrell has not engaged actively in the practice of veterinary medicine for the previous five years for an average of at least thirty hours per week as per Tenn. Comp. R. & Regs. 1730-1-.05(k). After review and discussion, a motion to deny the application was made by Dr. Welch and seconded by Dr. Edmonds. The motion carried.

The Board reviewed an application for licensure as a certified animal euthanasia technician submitted by **Amber Lynn Winters**. Ms. Winters answered “yes” to conviction of a felony or misdemeanor other than a minor traffic offense. Pursuant to additional information contained in the application regarding the possible performance of euthanasia without certification, Dr. Edmonds made a motion, seconded by Dr. Welch to request Ms. Winters’ appearance for an interview at the next scheduled board meeting. The motion carried.

Upon review, the Board moved to ratify all newly licensed/certified or reinstated veterinarians, veterinary medical technicians, veterinary facilities, certified animal euthanasia technicians, and certified animal control agencies.



## **Correspondence**

There was no correspondence presented to the Board for review.

## **Election of Officers**

A motion was made and seconded to nominate the following:

President – Leland Davis, DVM

Vice-President – Mary Welch, DVM

Secretary - Maben Thompson, DVM

The motion carried.

## **Adjournment**

There being no further business to discuss, Dr. Welch made a motion, seconded by Dr. Edmonds, to adjourn. The motion carried and the meeting was adjourned at 2:12 p.m.

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Maryann Grell, L.V.M.T., Secretary

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Date

